



Journal of the Senate

State of Indiana

114th General Assembly

First Regular Session

Thirty-second Meeting Day

Thursday Afternoon

March 17, 2005

The Senate convened at 1:32 p.m., with the President Pro Tempore of the Senate, Robert D. Garton, in the Chair.

Prayer was offered by Pastor Joyce Christmas, Rise Above It All Ministry, Indianapolis, the guest of Senator Samuel Smith, Jr.

The Pledge of Allegiance to the Flag was led by Senator Smith.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Antich-Carr	Lubbers
Bowser	Lutz
Bray	Meeks
Breaux	Merritt
Broden	Miller
Clark	Mishler
Craycraft	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Server
Harrison	Simpson
Heinold	Sipes
Hershman	Skinner
Howard	Smith
Hume	Steele
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis <input checked="" type="checkbox"/>	Zakas

Roll Call 292: present 49; excused 1. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill 1431, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 5, delete "is annually appropriated to" and insert "**shall be deposited in**".

Page 2, line 13, delete "appropriated to" and insert "**deposited in**".

(Reference is to HB 1431 as printed February 4, 2005.) and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

MEEKS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill 1052, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-30-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The budget agency ~~shall~~ **may** contract with a certified public accountant for an annual financial audit of the commission. The certified public accountant may not have a significant financial interest, as determined by the commission, in a vendor or retailer with whom the commission is under contract. The certified public accountant shall present an audit report not later than seven (7) months after the end of each fiscal year and shall make recommendations to enhance the earning capability of the lottery and to improve the efficiency of commission operations. The certified public accountant shall perform a study and evaluation of internal accounting controls and shall express an opinion on the controls that were in effect during the audit period. The commission shall pay the cost of the annual financial audit."

Page 1, line 4, strike "the yearly" and insert "**any**".

Page 1, line 9, strike "(a)".

Page 1, line 10, strike "before".

Page 1, line 11, strike "the fifteenth day of each month".

Page 1, line 11, strike "a".

Page 1, line 12, strike "report" and insert "**reports**".

Page 1, line 13, delete ".".

Page 1, line 13, strike "The report must include the".

Page 1, strike lines 14 through 17.

Page 2, strike lines 1 through 8.

Page 2, line 9, strike "agency." and insert "**as requested from time to time.**".

Page 2, delete lines 10 through 20.

Renumber all SECTION consecutively.

(Reference is to EHB 1052 as printed March 11, 2005.) and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

MEEKS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Engrossed House Bill 1600, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.
Committee Vote: Yeas 10, Nays 0.

HARRISON, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Engrossed House Bill 1394, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 26, begin a new paragraph and insert:

"SECTION 1. [EFFECTIVE JULY 1, 2005] (a) **A member of the Indiana state teachers' retirement fund (referred to in this SECTION as "fund") who is:**

- (1) **receiving a benefit from the fund; and**
- (2) **a party in an action for dissolution of marriage in which a court issues an order that prohibits the fund member's designated beneficiary from receiving any of the fund member's benefit from the fund;**

may, before January 1, 2006, make the election described in subsection (b).

(b) A fund member described in subsection (a) may elect to:

- (1) **change the fund member's designated beneficiary or form of benefit under IC 5-10.2-4-7(b); and**
- (2) **receive an actuarially adjusted and recalculated benefit for the remainder of:**
 - (A) **the fund member's life; or**
 - (B) **the fund member's life and the life of the newly designated beneficiary.**

(c) A fund member making the election under subsection (b) may not elect to change to a five (5) year guaranteed form of benefit.

(d) If a fund member elects a benefit under subsection (b)(2)(B), the fund member must indicate whether the newly designated beneficiary's benefit will equal:

- (1) **the fund member's full recalculated retirement benefit;**
- (2) **two-thirds (2/3) of the fund member's recalculated retirement benefit; or**
- (3) **one-half (1/2) of the fund member's recalculated retirement benefit.**

(e) The fund member bears the cost of recalculating a benefit under subsection (b)(2), and the cost shall be included in the actuarial adjustment.

(f) This SECTION expires January 1, 2006."

Renumber all SECTIONS consecutively.

(Reference is to HB 1394 as printed February 9, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

HARRISON, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Engrossed House Bill 1794, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, between lines 29 and 30, begin a new line double block indented and insert:

"(J) High ability students (as defined in IC 20-10.1-5.1-2) who have withdrawn from school before graduation and are full-time students in an accredited institution of higher education during the semester in which the cohort graduates."

Page 2, line 38, delete "(I)" and insert "(J)".

Page 3, line 12, delete "(I)" and insert "(J)".

Page 3, line 26, delete "(I)" and insert "(J)".

Page 3, line 32, delete "(I)" and insert "(J)".

Page 3, after line 35, begin a new paragraph and insert:

"SECTION 5. IC 20-26-13-10, AS ADDED BY HEA 1288-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. **Except as provided in section 11 of this chapter,** the graduation rate for a cohort in a high school is the percentage determined under STEP SEVEN of the following formula:

STEP ONE: Determine the grade 9 enrollment at the beginning of the reporting year three (3) years before the reporting year for which the graduation rate is being determined.

STEP TWO: Add:

- (A) the number determined under STEP ONE; and
- (B) the number of students who:
 - (i) have enrolled in the high school after the date on which the number determined under STEP ONE was determined; and
 - (ii) have the same expected graduation year as the cohort.

STEP THREE: Add:

- (A) the sum determined under STEP TWO; and
- (B) the number of retained students from earlier cohorts who became members of the cohort for whom the graduation rate is being determined.

STEP FOUR: Add:

- (A) the sum determined under STEP THREE; and
- (B) the number of students who:
 - (i) began the reporting year in a cohort that expects to graduate during a future reporting year; and
 - (ii) graduate during the current reporting year.

STEP FIVE: Subtract from the sum determined under STEP FOUR the number of students who have left the cohort for any of the following reasons:

- (A) Transfer to another public or nonpublic school.
- (B) Removal by the student's parents under IC 20-33-2-28

to provide instruction equivalent to that given in the public schools.

(C) Withdrawal because of a long term medical condition or death.

(D) Detention by a law enforcement agency or the department of correction.

(E) Placement by a court order or the division of family and children.

(F) Enrollment in a virtual school.

(G) Graduation before the beginning of the reporting year.

(H) Leaving school, if the **student attended school in Indiana for less than one (1) school year and the location of the student cannot be determined.**

(I) Leaving school, if the location of the student cannot be determined and the student has been reported to the Indiana clearinghouse for information on missing children.

(J) Withdrawing from school before graduation, if the student is a high ability student (as defined in IC 20-36-1-3) who is a full-time student at an accredited institution of higher education during the semester in which the cohort graduates.

STEP SIX: Determine the total number of students who have graduated during the current reporting year.

STEP SEVEN: Divide:

(A) the number determined under STEP SIX; by

(B) the remainder determined under STEP FIVE.

SECTION 6. IC 20-26-13-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. (a) A student who has left school is not included in clauses (A) through (J) of STEP FIVE of the formula established in section 10 of this chapter unless the school corporation can provide written proof that the student has left the school for one (1) of the reasons set forth in clauses (A) through (J) of STEP FIVE of section 10 of this chapter. If the location of the student is unknown to the school, the principal of the school shall send a certified letter to the last known address of the student, inquiring about the student's whereabouts and status. If the student is not located after the certified letter is delivered or if no response is received, the principal may submit the student's information, including last known address, parent or guardian name, student testing number, and other pertinent data to the state attendance officer. The state attendance officer, using all available state data and any other means available, shall attempt to locate the student and report the student's location and school enrollment status to the principal so that the principal can appropriately send student records to the new school or otherwise document the student's status.**

(b) If a school corporation cannot provide written proof that a student should be included in clauses (A) through (J) of STEP FIVE of section 10 of this chapter, the student is considered a dropout.

SECTION 7. IC 20-26-13-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 12. For each high school, the department shall calculate an estimated graduation rate that is determined by the total number of graduates for the reporting**

year divided by the total number of students enrolled in grade 9 at the school three (3) years before the reporting year. For any school where the difference between the estimated graduation rate and the number determined under STEP SEVEN of section 10 of this chapter is more than five percent (5%), the department shall request the data used in determining that the missing students are classified under one (1) or more of clauses (A) through (J) of STEP FIVE of section 10 of this chapter.

SECTION 8. IC 20-26-13-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 13. For any school that cannot provide written proof supporting the school's determination to include a student under any one (1) of clauses (A) through (J) of STEP FIVE of section 10 of this chapter, the department shall require the publication of the corrected graduation rate in the next school year's report required under IC 20-20-8-3."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1794 as printed February 2, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

LUBBERS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1141, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-33-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There ~~is~~ **are** established ~~a court~~ **two (2) courts** of record to be known as the:

(1) Dearborn superior court No. 1; and

(2) Dearborn superior court No. 2.

(b) ~~The~~ **Each** Dearborn superior court is a standard superior court as described in IC 33-29-1.

(c) Dearborn County comprises the judicial district of ~~the~~ **each** superior court.

SECTION 2. IC 33-33-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~The~~ **Each** Dearborn superior court has one (1) judge who shall hold sessions in:

(1) the Dearborn County courthouse in Lawrenceburg; or in

(2) other places in the county as the Dearborn County executive may provide.

SECTION 3. IC 33-33-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. In addition to a bailiff and an official court reporter for the court appointed under IC 33-29-1-5, ~~the~~ **each** judge may appoint a referee, a commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. The salary of a referee, a commissioner, or other person:

(1) shall be fixed in the same manner as the salaries of the personnel for the Dearborn circuit court; and

(2) shall be paid monthly out of the treasury of Dearborn County as provided by law.

Personnel appointed under this section or IC 33-29-1-5 continue in office until removed by the judge of the court **for which the personnel were appointed.**

SECTION 4. IC 33-33-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Except as provided in subsection (b), ~~the each~~ Dearborn superior court has the same jurisdiction as the Dearborn circuit court.

(b) The Dearborn circuit court has exclusive juvenile jurisdiction.

SECTION 5. IC 33-33-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~The Each~~ Dearborn superior court has a standard small claims and misdemeanor division.

SECTION 6. IC 33-33-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There ~~is~~ **are** established ~~a court two (2) courts~~ of record to be known as the DeKalb superior court **No. 1 and the DeKalb superior court No. 2.**

(b) ~~The Each~~ DeKalb superior court is a standard superior court as described in IC 33-29-1.

(c) DeKalb County comprises the judicial district of ~~the each~~ superior court.

SECTION 7. IC 33-33-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~The Each~~ DeKalb superior court has one (1) judge who shall hold sessions in:

- (1) the DeKalb County courthouse in Auburn; or
- (2) other places in the county as the board of county commissioners of DeKalb County may provide.

SECTION 8. IC 33-33-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) If:

- (1) **the clerk of the circuit court of DeKalb County receives** the transcript of the original papers in a civil action or proceeding ~~received by the clerk of the circuit and superior courts of DeKalb County on a change of venue from another county; contains and~~
- (2) **the papers described in subdivision (1) contain** an order of the court from which venue was changed designating the circuit court or **one (1) of the superior court courts** as the court to which the case is to be transferred;

the clerk shall file the action or proceeding on the docket of the designated court.

(b) If:

- (1) **the clerk of the circuit court of DeKalb County receives** the transcript of the original papers in a civil action or proceeding ~~does on a change of venue from another county; and~~
- (2) **the papers described in subdivision (1) do** not contain an order designating the court to which the case is to be transferred;

the clerk shall alternately file each action or proceeding on the docket of the circuit court ~~and or~~ the docket of **one (1) of the superior court courts**, depending on the order and sequence in which the papers of the cases reach the clerk, so that if the first case is assigned to the circuit court, the next must be assigned to the superior court **No. 1, and the next must be assigned to the**

superior court No. 2.

SECTION 9. IC 33-33-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~The Each~~ DeKalb superior court has the same jurisdiction as the DeKalb circuit court.

SECTION 10. IC 33-33-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. ~~The Each~~ DeKalb superior court has a standard small claims and misdemeanor division.

SECTION 11. IC 33-33-29-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There are established ~~five (5) six (6)~~ superior courts of record to be known as the:

- (1) Hamilton superior court No. 1; ~~the~~
- (2) Hamilton superior court No. 2; ~~the~~
- (3) Hamilton superior court No. 3; ~~the~~
- (4) Hamilton superior court No. 4; ~~and the~~
- (5) Hamilton superior court No. 5; **and**
- (6) **Hamilton superior court No. 6.**

(b) Except as otherwise provided in this chapter, each Hamilton superior court is a standard superior court as described in IC 33-29-1.

(c) Hamilton County constitutes the judicial district of each court.

SECTION 12. IC 33-33-29-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The:

- (1) Hamilton superior court No. 4; ~~and the~~
- (2) Hamilton superior court No. 5; **and**
- (3) **Hamilton superior court No. 6;**

each have a standard small claims and misdemeanor division.

SECTION 13. IC 33-33-32-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There are established ~~three (3) five (5)~~ superior courts of record to be known as:

- (1) Hendricks superior court No. 1;
- (2) Hendricks superior court No. 2; ~~and~~
- (3) Hendricks superior court No. 3;
- (4) **Hendricks superior court No. 4; and**
- (5) **Hendricks superior court No. 5.**

(b) Except as otherwise provided in this chapter, each Hendricks superior court is a standard superior court as described in IC 33-29-1.

(c) Hendricks County comprises the judicial district of each court.

SECTION 14. IC 33-33-32-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Change of venue from the judge or from the county may be had under the same terms, conditions, and procedure applicable to changes of venue from the judge or the county in circuit courts.

(b) If a cause is received by the clerk of the Hendricks circuit court on change of venue from another county, the cause shall be docketed on a rotating basis and assigned alternately to the:

- (1) Hendricks circuit court;
- (2) Hendricks superior court No. 1;
- (3) Hendricks superior court No. 2; ~~and~~
- (4) Hendricks superior court No. 3;
- (5) **Hendricks superior court No. 4; and**

(6) Hendricks superior court No. 5;

unless otherwise provided in the order or entry made in ~~such the~~ cause in the county from which ~~such the~~ change of venue was taken, in which case it shall be docketed as provided in the entry or order.

SECTION 15. IC 33-33-34-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a)** There ~~is~~ are established ~~a court four (4) superior courts~~ of record to be known as the Howard superior court ~~The court consists of two (2) judges each of whom holds office for six (6) years and until the judge's successor is elected and qualified. No. 1, the Howard superior court No. 2, the Howard superior court No. 3, and the Howard superior court No. 4.~~

(b) Except as otherwise provided in this chapter, each Howard superior court is a standard superior court, as described in IC 33-29-1.

(c) Howard county comprises the judicial circuit of each court.

SECTION 16. IC 33-33-34-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~(a) The~~ Each Howard superior court **has one (1) judge, who** shall hold its sessions in:

- (1) the Howard County courthouse in Kokomo; or
- (2) another convenient and suitable place as the board of county commissioners of Howard County provides.

~~(b) The board of county commissioners shall provide and maintain a suitable and convenient courtroom for the holding of the court, with a suitable and convenient jury room and offices for the judge and the official court reporter, and the county council shall meet and appropriate all necessary funds.~~

SECTION 17. IC 33-33-34-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The judges of the superior court

- ~~(1)~~ may make and adopt rules and regulations for conducting the business of the court.
- ~~(2)~~ has all the powers in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders; and
- ~~(3)~~ may administer oaths, solemnize marriages, take and certify acknowledgement of deeds, and give all necessary certificates for the authentication of the records and proceedings in the court.

SECTION 18. IC 33-33-34-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 19. The Howard superior court No. 3 has a standard small claims and misdemeanor division.**

SECTION 19. IC 33-33-48-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7.5. (a) The judges of the Madison superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the superior court.**

(b) The magistrate continues in office until removed by the judges of the superior court."

Page 2, line 3, delete "IC 33-33-54-5" and insert "IC 33-33-54-6".

Page 2, line 5, delete "Sec. 5." and insert "Sec. 6.".

Page 2, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 24. IC 33-33-84-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. There is established a court of record to be known as the Vigo superior court. The superior court has ~~four (4)~~ **five (5)** judges who shall hold their office for six (6) years and until their successors have been elected and qualified.

SECTION 25. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 33-33-17-5; IC 33-33-34-1; IC 33-33-34-4; IC 33-33-34-5; IC 33-33-34-8; IC 33-33-34-9; IC 33-33-34-10; IC 33-33-34-11; IC 33-33-34-15; IC 33-33-34-16; IC 33-33-34-17; IC 33-33-34.3.

SECTION 26. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding the amendment of IC 33-33-15 by this act, the Dearborn superior court No. 2 is not established until January 1, 2006.**

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge of the Dearborn superior court No. 2 established by IC 33-33-15-2, as amended by this act, before January 1, 2006.

(c) The term of the initial judge appointed under subsection (b) begins January 1, 2006, and ends December 31, 2006.

(d) The initial election of the judge of the Dearborn superior court No. 2 is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(e) This SECTION expires January 2, 2007.

SECTION 27. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding the amendment of IC 33-33-17 by this act, the DeKalb superior court No. 2 is not established until January 1, 2006.**

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge of the DeKalb superior court No. 2 added by IC 33-33-17-2, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 1, 2006, and ends December 31, 2006.

(d) The initial election of the judge of the DeKalb superior court No. 2 is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(e) Notwithstanding the repeal of IC 33-33-17-5 by this act, the part-time small claims referee appointed under IC 33-33-17-5 shall continue to assist the DeKalb superior court in the exercise of its small claims jurisdiction until December 31, 2005.

(f) This SECTION expires January 2, 2008.

SECTION 28. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 33-33-29-2, as amended by this act, the Hamilton superior court No. 6 is not established until January 1, 2007.**

(b) Notwithstanding IC 33-33-29-8, as amended by this act, the Hamilton superior court No. 6 does not have a standard small claims and misdemeanor division until January 1, 2007.

(c) The initial election of the judge of the Hamilton superior court No. 6 established in IC 33-33-29-2, as amended by this act, is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(d) This SECTION expires January 2, 2007.

SECTION 29. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 33-33-32-2 and IC 33-33-32-5, both as amended by this act, the:**

(1) Hendricks superior court No. 4; and
(2) Hendricks superior court No. 5;
as added by this act, are not established until January 1, 2007.

(b) The initial election of the judges of the:

- (1) Hendricks superior court No. 4; and
- (2) Hendricks superior court No. 5;

added by IC 33-33-32-2, as amended by this act, is the general election on November 7, 2006. The terms of the two (2) judges initially elected under this subsection begin January 1, 2007.

(c) This SECTION expires January 2, 2007.

SECTION 30. [EFFECTIVE JULY 1, 2005] (a) The judges of the:

- (1) Hendricks superior court No. 1;
- (2) Hendricks superior court No. 2;
- (3) Hendricks superior court No. 3; and
- (4) Hendricks circuit court;

may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the courts.

(b) A magistrate appointed under this SECTION continues in office until:

- (1) removed by the judges of the courts; or
- (2) January 1, 2007;

whichever occurs first.

(c) This SECTION expires January 2, 2007.

SECTION 31. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 33-33-34-3, as amended by this act, the Howard superior court is not expanded to four (4) courts until January 6, 2006.

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge of the Howard superior court No. 4 established by IC 33-33-34-3, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 6, 2006, and ends December 31, 2006.

(d) The initial election of the judge of the Howard superior court No. 4, established by IC 33-33-34-3, as amended by this act, is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(e) The terms of the judges of Howard superior court No. 1, Howard superior court No. 2, and Howard superior court No. 3 are not affected by the amendment of IC 33-33-34-3 or IC 33-33-34-6 by this act, or by the repeal of IC 33-33-34-4 or 33-33-34.3 by this act.

(f) This SECTION expires January 2, 2007."

Page 2, line 18, delete "33-33-54-5," and insert "33-33-54-6,".

Page 2, after line 38, begin a new paragraph and insert:

"SECTION 33. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 33-33-84-3, as amended by this act, the Vigo superior court is not expanded to five (5) judges until January 1, 2006.

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge added to the Vigo superior court by IC 33-33-84-3, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 1, 2006, and ends December 31, 2006.

(d) The initial election of the judge of the Vigo superior court added by IC 33-33-84-3, as amended by this act, is the general election in November 2006. The term of the initially elected judge begins January 1, 2007.

(e) This SECTION expires January 2, 2007."

Renumber all SECTIONS consecutively.

(Reference is to HB 1141 as printed January 28, 2005.)
and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

BRAY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1129, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 33, delete "clerk" and insert ":

(1)".

Page 2, line 35, delete "(1)", begin a new line double block indented, and insert:

"(A)".

Page 2, line 37, delete "(A)", begin a new line triple block indented, and insert:

"(i)".

Page 2, line 38, delete "(B)", begin a new line triple block indented, and insert:

"(ii)".

Page 2, line 39, beginning with "in" begin a new line double block indented.

Page 3, line 1, delete "(2)", begin a new line double block indented, and insert:

"(B)".

Page 3, line 2, delete "." and insert "; and

(2) may waive the fee under subsection (d) if the depositor is no longer practicing law."

Page 3, line 22, delete "or shall".

(Reference is to HB 1129 as reprinted February 4, 2005.)
and when so amended that said bill do pass and be reassigned to the Senate Committee on Tax and Fiscal Policy.

Committee Vote: Yeas 7, Nays 0.

BRAY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Engrossed House Bill 1488, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

LUBBERS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Joint Resolution 4, has had the same under consideration and begs leave to report the same back to the Senate

with the recommendation that said resolution do pass.
Committee Vote: Yeas 9, Nays 0.

BRAY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Engrossed House Bill 1553, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.
Committee Vote: Yeas 9, Nays 0.

MILLER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Engrossed House Bill 1306, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 9, delete "other than a referring physician's office".

Page 1, line 10, delete "or practice,".

Page 1, line 16, delete "the physician's" and insert "**that the physician has a**".

Page 2, between lines 2 and 3, begin a new line blocked left and insert:

"The individual shall acknowledge receipt of the notice required under this section by signing the notice. The physician shall keep a copy of the signed notice."

(Reference is to HB 1306 as printed January 26, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

MILLER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Engrossed House Bill 1240, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.
Committee Vote: Yeas 10, Nays 0.

MILLER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1501, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-22-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Except as provided in this chapter, this article applies to every ~~expenditure use~~ of public funds by a governmental body.

SECTION 2. IC 5-22-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in subsection (b) and otherwise in this article, this article does not apply to the following:

- (1) The commission for higher education.
- (2) A state educational institution. However, IC 5-22-15 applies to a state educational institution.
- (3) Military officers and military and armory boards of the state.
- (4) An entity established by the general assembly as a body corporate and politic. However, IC 5-22-15 applies to a body corporate and politic.
- (5) A local hospital authority under IC 5-1-4.
- (6) A municipally owned utility under IC 8-1-11.1 or IC 8-1.5.
- (7) Hospitals organized or operated under IC 16-22-1 through IC 16-22-5, IC 16-23-1, or IC 16-24-1.
- (8) A library board under IC 20-14-3-14(b).
- (9) A local housing authority under IC 36-7-18.
- (10) Tax exempt Indiana nonprofit corporations leasing and operating a city market owned by a political subdivision.
- (11) A person paying for a purchase or lease with funds other than public funds.
- (12) A person that has entered into an agreement with a governmental body under IC 5-23.
- (13) A municipality for the operation of municipal facilities used for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

(b) IC 5-22-2-13.3 and IC 5-22-3-7 apply to the entities described in subsection (a).

SECTION 3. IC 5-22-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) **Except as provided in subsection (b)**, this article does not apply to the following types of activities:

- (1) A contract between governmental bodies except for a contract authorized under this article.
- (2) A public works project.
- (3) A collective bargaining agreement between a governmental body and its employees.
- (4) The employment relationship between a governmental body and an employee of the governmental body.
- (5) An investment of public funds.
- (6) A contract between a governmental body and a body corporate and politic.
- (7) A contract for social services.

(b) IC 5-22-2-13.3 and IC 5-22-3-7 apply to:

- (1) a contract;**
- (2) a project;**
- (3) an agreement;**
- (4) an employment relationship; or**
- (5) an investment;**

described in subsection (a).

SECTION 4. IC 5-22-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **Except as otherwise provided**, the definitions in this chapter apply throughout this article.

SECTION 5. IC 5-22-2-13.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.3. **"In good standing"** means that a contractor, or the contractor's principal if the contractor is not an individual, has certified under penalty for perjury under IC 35-44-2-1 as a term of its contract with the governmental body, that:

(1) the contractor:

(A) has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC 24-4.7 for the duration of the contract, even if IC 24-4.7 is preempted by federal law; and

(2) no affiliate or principal of the contractor and no person acting on behalf of the contractor or on behalf of an affiliate or principal of the contractor:

(A) has violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and

(B) will violate the terms of IC 24-4.7 for the duration of the contract, even if IC 24-4.7 is preempted by federal law.

SECTION 6. IC 5-22-3-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a) This section does not apply to a contract in which one (1) party is a political subdivision.**

(b) A prospective contractor may not contract with a governmental body unless the prospective contractor is in good standing.

(c) The attorney general may bring an action in the circuit or superior court of Marion County to:

(1) void a contract under this section; and

(2) obtain other proper relief.

(d) A contract between a contractor and a governmental body is voidable at the election of the attorney general, if the attorney general establishes in a civil action that:

(1) the certification concerning compliance with IC 24-4.7 is materially false; or

(2) the contractor, an affiliate or a principal of the contractor, or a person acting on behalf of the contractor or an affiliate or a principal of the contractor has violated the terms of IC 24-4.7, even if IC 24-4.7 is preempted by federal law.

(e) If the attorney general establishes in a civil action that the contractor is knowingly, intentionally, or recklessly liable under subsection (d), the contractor is prohibited from entering into a contract with a governmental body for three hundred sixty-five (365) days after the date on which the contractor exhausts appellate remedies.

(f) In addition to any remedy obtained in a civil action brought under this section, the attorney general may obtain the following:

(1) All money the contractor obtained through each telephone call made in violation of the terms of IC 24-4.7, even if IC 24-4.7 is preempted by federal law.

(2) The attorney general's reasonable expenses incurred in:

(A) investigation; and

(B) maintaining the civil action.

(3) Reasonable costs and attorney's fees."

Page 3, after line 19, begin a new paragraph and insert:

"SECTION 9. [EFFECTIVE UPON PASSAGE] IC 5-22-1-2, IC 5-22-1-3, and IC 5-22-2-1, all as amended by this act, and IC 5-22-2-13.3 and IC 5-22-3-7, both as added by this act, apply only to a contract entered into or renewed after the effective date of this act.

SECTION 10. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1501 as printed February 15, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1241, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, between lines 34 and 35, begin a new paragraph and insert:

"(c) The detention, arrest, or conviction of a person based on a data base match or data base information is not invalidated if a court determines that the DNA sample was obtained or placed in the Indiana DNA data base by mistake."

Page 3, line 25, delete "(IC 33-37-5-26)." and insert **"(IC 33-37-5-26.2)."**

Page 4, line 42, after "fee" strike "(IC".

Page 5, line 7, delete "(IC 33-37-5-26)." and insert **"(IC 33-37-5-26.2)."**

Page 6, line 25, delete "(IC 33-37-5-26)." and insert **"(IC 33-37-5-26.2)."**

Page 6, line 36, delete "IC 33-37-5-26" and insert **"IC 33-37-5-26.2"**.

Page 6, line 38, delete "Sec. 26." and insert **"Sec. 26.2."**

Page 9, line 15, delete "IC 33-37-5-26" and insert **"IC 33-37-5-26.2"**.

Page 11, line 5, delete "IC 33-37-5-26" and insert **"IC 33-37-5-26.2"**.

(Reference is to HB 1241 as printed February 15, 2005.)

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

Committee Vote: Yeas 7, Nays 0.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1099, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1039, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 4, line 27, delete "or defraud".

Page 4, line 29, delete "defraud" and insert "**interfere with**".

Page 4, line 33, delete "or defrauds".

Page 4, line 34, delete "or defraud".

Page 5, line 1, delete "defrauding" and insert "**interfering with**".

(Reference is to HB 1039 as printed January 25, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

LONG, Chair

Report adopted.

REPORT OF THE PRESIDENT PRO TEMPORE

Madam President: Pursuant to Senate Rule 65(b), I hereby report that subsequent to the adoption of the Corrections, Criminal, and Civil Matters Committee Report on March 17, 2005, Engrossed House Bill 1501 was reassigned to the Committee on Corrections, Criminal, and Civil Matters.

GARTON

REPORT OF THE PRESIDENT PRO TEMPORE

Madam President: Pursuant to Senate Rule 65(b), I hereby report that, subsequent to the adoption of the Judiciary Committee Report on March 17, 2005, Engrossed House Bill 1141 is reassigned to the Committee on Appropriations.

GARTON

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed Senate Bill 18 with amendments and the same is herewith returned to the Senate for concurrence.

M. CAROLINE SPOTTS
Principal Clerk of the House

ENGROSSED HOUSE BILLS ON SECOND READING

Engrossed House Bill 1032

Senator Heinold called up Engrossed House Bill 1032 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

SENATE MOTION

Madam President: I move that Senator Steele be added as cosponsor of Engrossed House Bill 1540.

LONG

Motion prevailed.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1398, which is eligible for third reading, be returned to second reading for purposes of amendment.

LANDSKE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators M. Young and Antich-Carr be added as cosponsors of Engrossed House Bill 1600.

LUBBERS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator R. Young be added as cosponsor of Engrossed House Bill 1540.

LONG

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Monday, March 21, 2005.

LONG

Motion prevailed.

The Senate adjourned at 1:55 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate